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IN THE

Supreme Court of the United States

October Term, 1979

No. 79-952

EDDIE C. THOMAS,

Petitioner,

vs.

THE REVIEW BOARD OF THE INDIANA EMPLOYMENT SECURITY DIVISION, WILLIAM H. SKINNER, J. FRANK HALEY and RALPH MILES, as members and constituting the Review Board of the Indiana Employment Security Division,

and

BLAW-KNOX FOUNDRY & MACHINERY, INC.,

Respondents.

BRIEF OF RESPONDENT, THE REVIEW BOARD OF THE INDIANA EMPLOYMENT SECURITY DIVISION

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IN THE

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Respondents.

BRIEF OF RESPONDENT, THE REVIEW BOARD OF THE INDIANA EMPLOYMENT SECURITY DIVISION

QUESTIONS PRESENTED

Whether the State's denial of unemployment compensation benefits to petitioner constituted an impermissible burden on his free exercise of religious beliefs.

Whether an overriding public interest exists in regulating the expenditure of funds for unemployment compensation by means of the good cause regulation.

Whether the petitioner established good cause under the Indiana statute to qualify for unemployment benefits.

Whether the granting of benefits to the petitioner would amount to a violation of the Establishment Clause of the First Amendment.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The First Amendment to the Constitution of the United States reads as follows:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Indiana Code § 22-4-1-1 (Burns 1974) reads as follows:

> As a guide to the interpretation and application of this act the public policy of this state is declared to be as follows: Economic insecurity due to unemployment is declared hereby to be a serious menace to the health, morale and welfare of the people of this state and to the maintenance of public order within this state. Protection against this great hazard of our economic life can be provided in some measure by the required and systematic accumulation of funds during periods of employment to provide benefits to the unemployed during periods of unemployment and by encouragement of desirable stable employment. The enactment of this measure to provide for payment of benefits to persons unemployed through no fault of their own, to

faith as Jehovah's Witness, he gave no conditions attached to his employment and cited no specific religious tenets on the form.

On leaving Blaw-Knox, petitioner applied for unemployment compensation benefits, which were denied on December 11, 1975. Following a hearing, the referee found on February 24, 1976, that while Thomas had quit voluntarily as a result of religious convictions, such a basis for terminating employment did not constitute good cause connected with employment so as to allow the grant of benefits.

Thomas then initiated an appeal to the Review Board of the Employment Security Division on March 5, 1976. On November 29, 1976, the Review Board adopted the findings and conclusions of the referee and affirmed his decision.

An appeal was filed in the Indiana Court of Appeals, which on October 26, 1978, reversed the Board's decision. The Court of Appeals held that *Sherbert v. Verner* required a reversal of the Board. On November 22, 1978, the appellate court denied rehearing on the Board's petition.

The Indiana Supreme Court reversed the Court of Appeals' ruling on July 18, 1978. Following the previous "good cause" decisions in Indiana, the Court held that a termination must be job-related and objective in character to have been for good cause. In addition, the Court found that the indirect burden on Thomas' right of free exercise was supportable based on the State's secular goals, distinguishing the instant case from *Sherbert v. Verner,* 374 U.S. 410 (1963). It held that Thomas' personal beliefs were not forcibly violated by law and that he was not deprived of benefits granted to others. Finally, the Court cited the potential for violating the Establishment Clause should

> encourage stabilization in employment, and to provide for a state employment service is, therefore, essential to public welfare; and the same is declared to be a proper exercise of the police powers of the state.

Indiana Code § 22-4-15-1 (Burns 1974) reads as follows:

> With respect to benefit periods including extended benefit periods established subsequent to July 6, 1974, and before July 3, 1977, an individual who has voluntarily left his employment without good cause in connection with the work or who was discharged from his employment for just cause shall be ineligible for waiting period or benefit rights for the week in which the disqualifying separation occurred and until he has subsequently earned remuneration in employment equal to or exceeding the weekly benefit amount of his claim in each of ten (10) weeks. The weeks of a disqualification period remaining at the expiration of an individual's benefit period will be carried forward to an extended benefit period or to the benefit of a subsequent claim only if the first week of such extended benefit period or subsequent benefit period falls within ten (10) consecutive weeks from the beginning of the disqualification period imposed on the prior claim.

STATEMENT OF THE CASE

Petitioner, Eddie C. Thomas, sought and obtained employment at Blaw-Knox Foundry and Machinery, Inc. in the roll foundry. After several months on that job, the company closed the roll foundry and transferred Thomas to the turret line where tank turrets were manufactured. Thomas requested a layoff, though not a transfer; when a layoff was denied, petitioner quit on November 6, 1975, asserting that he could not continue to work in that facility. Although his employment application listed his

Thomas' request be granted. The Court, on September 29, 1979, denied Thomas' request for rehearing.

Petition for a writ of certiorari was granted by this Court on February 19, 1980.

SUMMARY OF ARGUMENT

The State's denial of unemployment compensation benefits to petitioner does not prohibit or unreasonably burden petitioner's right to the free exercise of his religious beliefs. No absolute freedom to act based upon those beliefs exists, nor does an absolute right to such benefits. Thomas himself created the conflict between his employment and his personal beliefs, and he was not forced to violate a tenet of his faith.

A crucial and overriding public interest requires that the State's secular goals here be allowed to influence indirectly Thomas' conduct in exercise of his beliefs. There exists a strong interest in maintaining a stable level of employment, in encouraging productivity, in allowing business to determine independently what products it will produce, and in assuring neutrality toward both religion and nonreligion. Nor may the State infringe upon the Equal Protection rights of nonbelievers by granting benefits only to those whose personal beliefs are religious in nature.

The Indiana employment security act requires a claimant who voluntarily terminates employment to establish good cause in connection with the work. Good cause, under the statute, cannot be based upon reasons which are personal and not objectively related to the employment. The petitioner did not establish good cause; he presented only per-

sonal, subjective reasons for quitting and failed to show an objective nexus to his employment.

Granting unemployment benefits to the petitioner would amount to an unconstitutional violation of the Establishment Clause. To extend benefits to the petitioner, the Court will have to require a grant of benefits to religiously motivated pacifists while allowing a denial of benefits to nonreligious pacifists. Such an exemption is a violation of the neutrality provision of the "Establishment" clause of the First Amendment.

ARGUMENT

I.

The State's Denial of Unemployment Compensation Benefits to Petitioner Does Not Constitute an Impermissible and Direct Burden on His Free Exercise of Religious Beliefs.

Under the First Amendment to the United States Constitution, all individuals are granted protection against governmental entanglement in the holding of religious beliefs. It has long been held that government cannot constitutionally compel the espousing of a religious belief, *Torcaso v. Watkins,* 367 U.S. 488 (1961); nor can it discriminate against or among individuals or groups because of their religious beliefs. *Fowler v. Rhode Island,* 345 U.S. 67 (1963). Likewise, the government may not favor religion over nonreligion, *Epperson v. Arkansas,* 393 U.S. 97 (1968); *Buckley v. Valeo,* 424 U.S. 1, 92 (1975); *Everson v. Board of Education,* 330 U.S. 1 (1947).

However, not every governmental regulation, free of any claim of violation of the Establishment Clause, will

run afoul of the Free Exercise clause of the First Amendment. The freedom to act in accord with one's religious beliefs is not absolute and thus is not coextensive with the unlimited right to possess beliefs. *Braunfeld v. Brown,* 366 U.S. 599 (1961). Such conduct may be regulated if it poses some substantial threat to public order, peace or safety, or when the activities of one person based on religious belief collide with the liberties of others or the public or violate public policy. *Mohammad v. Sommers,* 238 F. Supp. 806 (D.C. Mich., 1964). If the means are reasonably adapted to the objective of achieving an important state goal and if there are no more narrow ways to achieve that end, a state regulation may restrain religious liberty in the public interest. *Monroe v. Bombard,* 422 F. Supp. 211 (D.C.N.Y., 1976); *Braunfeld v. Brown, supra.*

The petitioner herein, Eddie C. Thomas, sought employment at and was hired by Blaw-Knox to work in the roll foundry. The facts show that he never clearly indicated to his employer at the time of hiring that any special conditions attached to his employment but instead merely informed the company of his religious denomination without more specific information. Petitioner's Appendix (hereinafter Pet. App.) 27a. The referee determined that Thomas did not, knowing of his beliefs, seek out information as to Blaw-Knox to ascertain its armament-producing function before beginning his employment there. Pet. App. 3a. Thus, the employer was unaware at the time of Thomas' transfer that his new position would conflict with his religious beliefs. Thomas sought his original job at Blaw-Knox in spite of the fact that, as the record shows, the entire company was involved in the production of armaments. Pet. App. 33a. The personal problem created by his religious objection to contributing to the fur-

therance of war existed from the very first day of his employment and was completely a result of his voluntary act in joining the company and his own negligence in failing to seek information as to the nature of his employment.

This situation was completely unlike the one facing Adell Sherbert, a Seventh-Day Adventist. At the time she began working for the South Carolina textile mill, she was permitted to work a five-day week; considerably later, her employer changed all its shifts to require Saturday work. *Sherbert v. Verner,* 374 U.S. 398 (1963). She requested unemployment compensation benefits after being unable to locate a position which did not require Saturday work. However, her benefits were denied on the grounds that she had refused available work and thereby rendered herself ineligible. *Sherbert,* at 401. This Court held the denial of compensation benefits unconstitutional since Sherbert's constitutional right to exercise freely her religious beliefs was restricted by the compulsion to choose between benefits and her religious belief without a justifying and compelling state interest in regulating her conduct. *Id.,* at 404. That conclusion was reached in spite of the indirect nature of the burden upon her free exercise since the statute did not compel her to work on Saturdays and thus force her to abandon an essential tenet of her faith.

The subsequent case of *Lincoln v. True,* 408 F. Supp. 22 (D.C. Ken., 1975) relied on the *Sherbert* reasoning to require benefits be extended to a Jehovah's Witness who, after 21 years of work with a tobacco firm, was told by elders of her faith that her employment dealing with tobacco violated the Will of God and resigned her post. In both *Lincoln* and *Sherbert,* the Court's holdings rested on findings that the compulsion to choose between benefits and a religious belief was intolerable and unconstitutional.

In addition, both plaintiffs were involuntarily put in this unacceptable position of choice.

However, Thomas should have known when he began working at Blaw-Knox that the company was, as a whole, engaged in the production of armaments. Thomas did not attempt to obtain a transfer, Pet. App. 28a; the record does not indicate that he could not have found alternative employment either at the time of his hiring or at the time of his transfer. The record does not show that Thomas was faced with a choice between producing armaments or not working.

Sherbert cannot stand for the proposition that any action in exercise of a religious belief is permissible; in fact, *Sherbert* is limited to its facts. This Court, in that opinion, stated, at page 410:

> Finally, nothing we say today constrains the States to adopt any particular form or scheme of unemployment compensation. Our holding today is *only* that South Carolina may not constitutionally apply the eligibility provisions so as to constrain a worker to abandon his religious convictions respecting the day of rest. [Emphasis supplied.]

It is obvious that if Sherbert or Thomas or another person decided to exercise his religious beliefs by threatening to destroy or by destroying the machinery of the factory, such conduct would be subject to regulation and to criminal penalty. *Holdridge v. United States,* 282 F.2d 302 (8th Cir., 1960). Thus, while some methods of freely exercising one's beliefs are necessary and permissible, others are not and for the public good must be regulated.

A state provision allowing the use of churches as polling places for elections was upheld, despite the incidental burden on a voter who was barred by his religion from

entering churches of other faiths, in light of the state interest in having more available polling sites. *Berman v. Bd. of Elections, City of New York,* 420 F.2d 684 (2nd Cir., 1969), *cert. denied* 397 U.S. 1065. That circuit likewise found valid a congressional decision to prohibit deducting for income tax purposes money given to educational funds supporting religious schools. *Winters v. C.I.R.,* 468 F.2d 778 (2nd Cir., 1972). A public school teacher, a Jehovah's Witness, could be discharged for failure to adhere to the prescribed curriculum notwithstanding her claim that her right to free exercise was violated. *Palmer v. Bd. of Ed. of Chicago,* 603 F.2d 1271 (7th Cir., 1979), *cert. denied* 100 S.Ct. 689.

The Sixth Circuit has held that since the federal income tax is levied uniformly against both believers and those with no belief, it is a neutral statute and does not unreasonably burden the free exercise of religion by Quakers. *Graves v. C.I.R.,* 579 F.2d 392 (6th Cir., 1978), *cert. denied* 99 S.Ct. 1423. The requirement that persons must obtain advance permission before visiting for religious purposes an island used for naval target practice is not invalid under the free exercise clause. *United States v. Mowat,* 582 F.2d 1194 (9th Cir., 1978), *cert. denied* 99 S.Ct. 458. The ban on polygamy was upheld despite a Mormon's contention that it was his religious duty to continue that practice. *Reynolds v. United States,* 98 U.S. 145 (1878). A Jehovah's Witness may be compelled to submit to civilian work in lieu of induction into the military. *United States v. Berrier,* 434 F.2d 572 (4th Cir., 1970), *cert. denied* 401 U.S. 966; *United States v. Campbell,* 439 F.2d 1087 (9th Cir., 1971). In addition, the long line of Sunday closing law cases upholding such statutes despite their effect on

certain religious groups similarly demonstrate that free exercise is not unlimited.

All of those cases, including *Sherbert* and *Lincoln,* involve beliefs possessed by persons who, in acting upon those beliefs, were involuntarily made subject to regulation, loss of an economic benefit, or the imposition of a criminal sanction. None of the plaintiffs there could avoid the conflict of their own convictions with government policy. But Eddie Thomas might have done so—at no economic cost—by determining the nature of the employment at Blaw-Knox before he accepted a job there. He voluntarily sought a job at Blaw-Knox and assumed the risk created by his own negligence. *Sherbert* cannot be extended so far without severely limiting legislative ability to assure the general welfare. To do so would be to allow any individual to act as carelessly as Thomas did and would reduce resources available to assist those who are unemployed through no fault of their own. The state must keep from prohibiting religious acts by maintaining neutrality, but it is not to provide the means to carry out each and every religious act. *Clark v. Wolff,* 347 F.Supp. 887 (D.C. Neb., 1972), *aff'd. Anderson v. Wolff,* 468 F.2d 252 (8th Cir., 1972). Conscience is not always superordinating. *Gray v. Gulf, M. & O. R. Co.,* 429 F.2d 1064 (5th Cir., 1970), *cert. denied* 400 U.S. 1001.

Thus, it must be held on the facts here presented that any indirect burden on Thomas' free exercise rights resulted primarily and directly from his own lack of diligence. To elevate his voluntary and inadequately considered action to constitutional status is to violate the many decisions of our courts as to necessary restraint of liberties and to do damage to the two religious protections afforded by the First Amendment.

II.

An Overriding Public Interest Exists in Regulating the Expenditure of Funds for Unemployment Compensation by Means of the Good Cause Regulation.

Upon consideration of the facts of this case, it is overwhelmingly apparent that there exists a multifaceted, crucial and overriding public interest in the State's good cause-voluntary quit regulations which justifies any indirect burden these provisions may place on the exercise of religious beliefs. The states are first of all required to maintain neutrality toward religion and religious groups, neither overtly supporting a religion, favoring one religion over others or over nonreligion, nor inhibiting all religions. *Walz v. Tax Commission,* 397 U.S. 664 (1970); *Cantwell v. Connecticut,* 310 U.S. 296 (1940). The conduct or actions undertaken to express those beliefs, however, is subject to regulation where a substantial threat to public safety, peace or order exists, *Reynolds v. United States, supra,* or where the regulation does not infringe upon the free exercise of beliefs. *Sherbert, supra.*

Thomas was compelled as a result of his own actions, and not by law, to recognize the existence of conflict between his beliefs and company products. Nor did the statute by its terms require him to violate the religious objection to armament production which he expressed by resigning from Blaw-Knox. The Indiana provision imposed upon him the same requirements and conditions as it does upon every other person working then resigning in this State. In other words, any person who leaves his job for a personal reason or belief, not objectively measurable as job-related, faces the identical situation in his application for benefits. It has never been held that one who asserts a

violation of his freedom of travel, a protected right, or any other claimed right, is entitled to an exception to this statute, or that one who objects to some aspect of an industrial practice without the backing of a recognized religious denomination could be exempt from its terms.

To the contrary, the State may extend benefits from public funds where those funds are neutrally available to all. *Roemer v. Bd. of Public Works of Maryland,* 426 U.S. 736 (1976). No affirmative action by the state can be undertaken to treat religious groups differently from other groups. *Walz, supra.* As was pointed out by *Lemon v. Kurtzman,* the state has an interest in avoiding a religious entanglement to prevent potential political division along religious lines. 403 U.S. 602 (1971). Likewise, the state must act to protect the limited funds available for unemployment compensation, an interest growing daily along with the unemployment rate in these difficult economic times.

It does not benefit the state, the general public, or our economic development to encourage unrestricted voluntary unemployment. A stable work force decreases the expenses incurred by industry and increases the productivity of our nation. Employees are encouraged not only to work up to their potential, but to notify employers of special circumstances attendant upon their employment. Employers can thereby avoid speculative and possibly erroneous determinations as to the moral or religious beliefs of workers, and free communication of beliefs is facilitated. The morale of workers not sharing a particular belief is protected by the equal treatment of all. Nor should a group of workers or a religious group be allowed to influence the kind of goods produced by a given industry by refusing to pro-

duce some item; the danger of that eventuality as to armaments is great. Our economic and defensive security as a nation must be safeguarded, despite the counterbalancing need to assure the protection of beliefs. Since the number of persons potentially affected by the instant case is much greater than by *Sherbert,* great caution must be exercised.

Combined with these general factors are the dangers of violating not only the Establishment Clause, but also the Fourteenth Amendment's Equal Protection provisions, and the fact that there is no less restrictive method of achieving the state's goals. "The Free Exercise Clause categorically forbids government from regulating, prohibiting *or rewarding* religious beliefs as such." [Emphasis supplied] *McDaniel v. Paty,* 435 U.S. 618 (1978). The government may not give its stamp of approval to the spiritual content of beliefs or weigh alternative beliefs. *Allen v. Hickel,* 424 F.2d 944, 138 U.S. App. D.C. 31 (D.C. Cir., 1970), *on remand* 333 F.2d 1088; reversed on other grounds 495 F.2d 65, 161 U.S. App. D.C. 239. The state cannot benefit religious groups over nonreligious, nontheistic ones. *Kosydar v. Wolman,* 353 F.Supp. 744 (D.C. Ohio, 1972), *stay denied* 410 U.S. 903, *aff'd* 413 U.S. 901. Such an action by Indiana here might violate not just the Establishment Clause by giving financial support to a religious group or compelling a person to espouse a religious belief against his will to obtain the benefits, but also the Equal Protection clause. No reason exists to give a benefit, not a constitutional right, to one group and not grant a comparable benefit to others. *School District of Abington Twnshp. v. Schempp,* 374 U.S. 203 (1963); *McDaniel, supra.*

Sherbert and *Lincoln* apart, the doctrines of *Braunfeld*

v. Brown, supra, have continuing validity and force. If the purpose of a law is to impede or discriminate between religions, it is invalid. But if the law advances a secular purpose unable to be otherwise implemented, while placing an indirect burden on free exercise, it should be upheld in the public interest. The Indiana law in qustion here meets all the *Braunfeld* criteria as enumerated above and promotes the public welfare; it must be upheld as an all-or-nothing proposition: either a good cause provision may be applied to all to avoid gutting state unemployment programs, or such a provision must be stricken as to everyone, a fearsome and unpalatable prospect.

III.

The Petitioner Did Not Qualify For Unemployment Benefits Under the Indiana Statute Because He Failed to Establish "Good Cause" For Abandoning His Employment.

Under the provisions of the Indiana employment compensation act, as set forth in Indiana Code § 22-4-15-1 (Burns 1974), an individual who voluntarily quits his or her employment is disqualified from receiving benefits unless he or she can establish "good cause in connection with the work." Indiana courts have consistently construed such language to disqualify reasons which are personal to the employee and which are not objectively related to his or her employment as good cause. *Geckler v. Review Board of Indiana Employment Security Division,* 244 Ind. 473 (1963); *Lewis v. Review Board of Indiana Employment Security Division,* 152 Ind. App. 187 (1972).

The Indiana Court of Appeals, in *Gray v. Dobbs House, Inc.,* — Ind. App. —, 357 N.E.2d 900 (1976), adopted a two-pronged test to determine if an employee who voluntarily

quit employment did so with good cause. In *Gray, supra,* the Court held to avoid disqualification an employee who has voluntarily quit has the burden of establishing:

> (a) that his reasons for abandoning his employment were such as would impel a reasonably prudent man to terminate under the same or similar circumstances; and (b) that these reasons, or causes, are objectively related to the employment. 357 N.E. 2d at 903.

The petitioner did not meet this burden; he presented only personal, subjective reasons and failed to show an objective nexus with his employment. Blaw-Knox produced armaments when the petitioner sought employment, but he did not inquire into the nature of its products. Pet. App. pp. 3a, 8a. The roll foundry in which he was initially placed was involved with the production of weapons though it was not as highly discernible because it was involved in a much earlier stage of production than the turret line. Pet. App. p. 33a. The petitioner stated he did not mind working in an industry involved in producing items which could be used for the advancement of war if he was involved at an early point of production where it was not as readily apparent that weapons were being produced, and he indicated a willingness to return to work in the roll foundry if it was reopened by requesting a layoff. Pet. App. pp. 3a, 34a. The petitioner's reason for quitting was that it bothered him to work at the turret line because it was involved with a later stage of production where it was more easily discernible that his employer produced armaments. Pet. App. p. 34a. Furthermore, as the Indiana Supreme Court noted in its opinion, other Jehovah's Witnesses who worked at Blaw-Knox did not feel impelled to quit when in the same position as the petitioner. 391 N.E.2d, at 1133.

IV.

Granting Petitioner Benefits Would Amount to an Unconstitutional Violation of the Establishment Clause of the First Amendment.

The First Amendment forbids government from establishing religion and from prohibiting free exercise of religion. These two mandates compel neutrality on the part of state and federal government so that there will not be a fusion of governmental and religious functions and, thereby prevent the creation of a state church or a church-dominated state. *School District of Abington v. Schempp and Murray, supra; Walz v. Tax Commissioner of the City of New York, supra.* The effect of both clauses should be to ensure that religious activity remains entirely private. *Everson v. Board of Education of the Township of Ewing, supra, School District of Abington v. Schempp and Murray, supra.*

To grant benefits to the petitioner here, by judicial intervention, on the basis of protecting his rights under the Free Exercise Clause of the First Amendment would violate the Establishment Clause of the same amendment.* Unless the Court were to strike down the disqualification statute, Indiana Code § 22-4-15-1 (Burns 1974), it will have to create an exemption, based on religious belief, to the statute's provisions in order to extend benefits to the petitioner. However, such an exemption would, by its very nature, be unconstitutional. *United States v. Seeger,* 380 U.S. 163 (1965); *United States v. Welsh,* 398 U.S. 333 (1970). This Court held in *Seeger* and *Welsh,* that to limit

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* See Ely, "Legislative and Administrative Motivation in Constitutional Law," 79 Yale L.J. 1207 (1970).

Weiss, "Privilege, Posture and Protection: Religion in the Law," 73 Yale L.Jr. 593 (1964).

the classification of an exemption to religious grounds is an unconstitutional violation of the Establishment Clause of the First Amendment. Justice Harlan, in his concurring opinion in *United States v. Welsh, supra,* wrote:

> Since this created a religious benefit not accorded to petitioner, it is clear to me that this conviction must be reversed under the Establishment Clause of the First Amendment unless Welsh is to go remediless.

United States v. Welsh, 398 U.S. 333, at 362 (1970).

The Free Exercise Clause does not have priority over the Establishment Clause. *McGowan v. Maryland,* 366 U.S. 420 (1961); *School District of Abington v. Schempp and Murray, supra.* To give superiority to the Free Exercise Clause violates the First Amendment's requirement of neutrality, as this Court has stated:

> The breach of neutrality that is today a trickling stream may all too soon become a raging torrent and, in the words of Madison, "it is proper to take alarm at that first experiment on our liberties.

School District of Abington v. Schempp and Murray, 374 U.S. 203, at 225 (1963).

The mere fact that a law may have an impact on religious observance should not trigger judicial intervention. Such a broad position would foster excessive governmental entanglement with religion, since every piece of legislation could have a possible impact on some religious observance. *Walz v. Tax Commission of the City of New York, supra.* Rather, the purpose of the law should be examined, where, as here, the law favors neither religion nor non-religion and serves a legitimate government interest, the Court should not intervene. *Braunfeld v. Brown, supra; Graves v. C.I.R., supra.*

The Supreme Court of Indiana was correct in holding that extension of benefits to the petitioner, by creating a special religious exemption to the Indiana "good cause" statute, would have violated the Establishment Clause of the First Amendment. Therefore, its decision should be affirmed.

CONCLUSION

For the foregoing reasons, the decision of the Supreme Court of Indiana should be affirmed.

Respectfully submitted,

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